APPENDIX A

STATUTES INVOLVED

Sections 14 and 15 of the Shipping Act, 1916, 39 Stat. 733, as Amended (extracted from Title 46, U..S. C. A.)

Sec. 14. (46 U. S. C. sec. 812.) No common carrier by water shall, directly or indirectly, in respect to the transportation by water of passengers or property between a port of a State, Territory, District, or possession of the United States and any other such port or a port of a foreign country—

First. Pay or allow, or enter into any combination, agreement, or understanding, express or implied, to pay or allow a deferred rebate to any shipper. The term "deferred rebate" in this chapter means a return of any portion of the freight money by a carrier to any shipper as a consideration for the giving of all or any portion of his shipments to the same or any other carrier, or for any other purpose, the payment of which is deferred beyond the completion of the service for which it is paid, and is made only if, during both the period for which computed and the period of deferment, the shipper has complied with the terms of the rebate agreement or arrangement.

Second. Use a fighting ship either separately or in conjunction with any other carrier, through agreement or otherwise. The term "fighting ship" in this chapter means a vessel used in a particular trade by a carrier or group of carriers for the purpose of excluding, preventing, or reducing competition by driving another carrier out of said trade.

Third. Retaliate against any shipper by refusing, or threatening to refuse, space accommodations when such are available, or resort to other discriminating or unfair methods, because such shipper has patronized any other carrier or has filed a complaint charging unfair treatment, or for any other reason.

Fourth. Make any unfair or unjustly discriminatory contract with any shipper based on the volume of freight offered, or unfairly treat or unjustly discriminate against any shipper in the matter of (a) cargo space accommodations or other facilities, due regard being had for the proper loading of the vessel and the available tonnage; (b) the loading and landing of freight in proper condition; or (c) the adjustment and settlement of claims.

Any carrier who violates any provision of this section shall be guilty of a misdemeanor punishable by a fine of not more than $25,000 for each offense.

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Sec. 15. (46 U. S. C. sec. 814.) Every common carrier by water, or other person subject to this chapter, shall file immediately with the Federal Maritime Board a true copy, or, if oral, a true and complete memorandum, of every agreement, with another such carrier or other person subject to this chapter, or modification or cancellation thereof, to which it may be a party or conform in whole or in part, fixing or regulating transportation rates or fares; giving or receiving special rates, accommodations, or other special privileges or advantages; controlling, regulating, preventing, or destroying competition; pooling or apportioning earnings, losses, or traffic; alloting ports or restricting or otherwise regulating the number and character of sailings between ports; limiting or regulating in any way the volume or character of freight or passenger traffic to be carried; or in any manner providing for an exclusive, preferential, or cooperative working arrangement. The term "agreement" in this section includes understandings, conferences, and other arrangements.

The Board may by order disapprove, cancel, or modify any agreement, or any modification or cancellation thereof, whether or not previously approved by it, that it finds to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between ex-

porters from the United States and their foreign competitors or to operate to the detriment of the commerce of the United States, or to be in violation of this chapter, and shall approve all other agreements, modifications, or cancellations.

Agreements existing at the time of the organization of the Board shall be lawful until disapproved by the Board. It shall be unlawful to carry out any agreement or any portion thereof disapproved by the Board.

All agreements, modifications, or cancellations made after the organization of the Board shall be lawful only when and as long as approved by the Board, and before approval or after disapproval it shall be unlawful to carry out in whole or in part, directly or indirectly, any such agreement, modification, or cancellation.

Every agreement, modification, or cancellation lawful under this section shall be excepted from the provisions of sections 1-11 and 15 of Title 15, and amendments and Acts supplementary thereto.

Whoever violates any provision of this section shall be liable to a penalty of $1,000 for each day such violation continues, to be recovered by the United States in a civil action.

Public Law 85-626; 72 Stat. 574

[S. 3916]

An Act to amend the Shipping Act, 1916.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, THAT:

Section 14 of the Shipping Act, 1916, is amended by inserting at the end thereof the following: "Provided, That nothing in this section or elsewhere in this Act, shall be construed or applied to forbid or make unlawful any

dual rate contract arrangement in use by the members of a conference on May 19, 1958, which conference is organized under an agreement approved under section 15 of this Act by the regulatory body administering this Act, unless and until such regulatory body disapproves, cancels, or modifies such arrangement in accordance with the standards set forth in section 15 of this Act. The term 'dual rate contract arrangement' as used herein means a practice whereby a conference establishes tariffs of rates at two levels the lower of which will be charged to merchants who agree to ship their cargoes on vessels of members of the conference only and the higher of which shall be charged to merchants who do not so agree."

Sec. 2. This Act shall be effective immediately upon enactment and shall cease to be effective on and after June 30, 1960.

Approved August 12, 1958.

Public Law 86-542; 74 Stat. 253

[H. R. 10840]

An Act to amend Public Law 85-626 relating to dual rate contract agreements.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, THAT:

Section 2 of the Act entitled "To amend the Shipping Act, 1916", approved August 12, 1958 (72 Stat. 574), is amended by striking out "1960" and inserting in lieu thereof "1961".

Approved June 29, 1960.

Public Law 87-75; 75 Stat. 195

[S. 2154].

An Act to amend Public Law 85-626, as amended by Public Law 86-542, relating to dual rate contract agreements.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, THAT:

Section 2 of the Act entitled "To amend the Shipping Act, 1916", approved August 12, 1958 (72 Stat. 574), as amended by an Act approved June 29, 1960 (74 Stat. 253), is further amended by striking out "June 30, 1961" and inserting in lieu thereof "September 15, 1961".

Approved June 30, 1961.

Public Law 87-252; 75 Stat. 521

[H. R. 3156]

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SEC. 2. That section 2 of the Act of August 12, 1958, as amended, is amended to reads as follows:

"SEC. 2. This Act shall be effective immediately upon enactment and shall cease to be effective on and after October 15, 1961: *Provided, however*, That contracts in effect midnight September 14, 1961, shall remain in effect until midnight October 15, 1961, unless such contracts terminate earlier by their own terms, or are rendered illegal under the terms of the first section of this Act."

Approved September 16, 1961.

The **Saving statute, Title 1, U.S.C., Section 109,** provides as follows:

> The repeal of any statute shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such statute, unless the repealing Act shall so expressly provide, and such statute shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture, or liability. The expiration of a temporary statute shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such statute, unless the temporary statute shall so expressly provide, and such statute shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture, or liability. July 30, 1947, c. 388, § 1, 61 Stat. 633.